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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,209	02/24/2004	Ronald P. Hohmann JR.	PHO-236 CIP	8805
48745	7590	07/13/2007		
SILBER & FRIDMAN 1037 ROUTE 46 EAST SUITE 207 CLIFTON, NJ 07013			EXAMINER FIGUEROA, ADRIANA	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/785,209

Applicant(s)

HOHMANN, RONALD P.

Examiner

Adriana Figueroa

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/18/2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: in the amended disclosure in page 14, line 1 the "tubular legs 142", in page 14 line 20, "the channels 47", in page 17, line 2, "crossbar 286" are not shown in the drawings.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: in Figure 3, reference numbers 68 and 70 are not mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: in paragraph 62, lines 9-11 the disclosure say "the base surface 58 of the leg portions and the base surface 60 of the bail portion 62 are substantially coplanar". This is incorrect since these two surfaces are not shown as coplanar in the drawings.

Appropriate correction is required.

4. The amendment filed 05/18/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: in paragraph 62, lines 12-16 these steps were not included in the original disclosure. In addition, paragraph 82.1 discloses advantages that are considered new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the applicant is claiming a combination of the "anchoring system" with the "outer and inner wythe". If the applicant's intention was to claim the combination, the claims should be amended to clearly convey that.

For the purpose of examination, the examiner will consider the present invention as "the anchoring system", "the outer and inner wythe" are given no patentable weight.

Claims 3 and 15 in line 2 recites the limitation "said exterior layer" which is not part of the claim. Therefore is improper to recite the anchoring system in terms of said exterior layer.

Claims 5 and 17 in line 2 recites the limitation "said inner wythe" which is not part of the claim. Therefore is improper to recite the anchoring system in terms of the inner wythe.

Claim 13 in line 22 recites the limitation "for total bends of approximately 180° each, bending leg portions approximately 90° each". It is unclear what the applicant means by this. For examination purposes the examiner will consider the legs being bend at approximately 90° each.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-8, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann (US 4,598,518) in view of Frobosilo (US 5,846,018) and further in view of Wilhelmi (US 5,598,680).

Regarding claims 1 and 13, Hohmann discloses an anchoring system having a wall anchor (12) constructed from a plate-like body (24) having two major faces being the mounting surface (i) and the outer surface (o), said wall anchor, in turn, comprising; a pair of legs (33), each extending from said mounting surface of said plate-like body from an inboard location thereof with the longitudinal axis of each of said legs being substantially normal to said mounting surface (i), (annotated Figure 3).

The phrases "said legs adapted for insertion at a predetermined insertion point into said exterior layer of said inner wythe", "adapted to preclude penetration of air, moisture and water vapor into said exterior layer" are considered intended use and are given no patentable weight.

a covering portion (c) formed at said mounting surface (i) of said plate-like body,

an apertured receptor portion (28) adjacent said outer surface (o) of said plate-like body (24), (annotated Figure 3). The phrase "adapted to limit displacement of said outer wythe toward and away from said inner wythe" is considered intended use and is given no patentable weight.

and, a veneer tie (18) threadedly disposed through said apertured receptor portion (28) , (annotated Figure 3). The phrase "and adapted for embedment in said bed joint of said outer wythe to prevent disengagement from said anchoring system" is considered intended use and is given no patentable weight.

Hohmann does not disclose the legs having a channel along said axis adapted for sheathing mounting hardware. However, Frobosilo teaches a leg (14) having a channel (28b) along said axis, (Figure 1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the legs of Hohmann to include a channel as taught by Frobosilo that would provide the option of having an additional attachment between the leg and the layer of insulation.

Hohmann does not disclose at least one strengthening rib impressed in said plate-like body parallel to said apertured receptor portion. However, Wilhelmi teaches a bracket assembly having at least one strengthening rib (23) impressed in said plate-like body parallel to an apertured receptor portion (4.1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Hohmann to include at least one strengthening rib parallel to said apertured receptor portion as taught by Wilhelmi, as it is well known in the art to add ribs to sheet metal members, as they provide reinforcement by adding strength and rigidity to the sheet metal.

Regarding claims 2 and 14, Hohmann modified by Frobosilo and Wilhelmi discloses as discussed above, but does not disclose said wall anchor strengthened by at least one strengthening rib is constructed to meet a 100 lbf tension and compression rating. However, it would have been an obvious matter of design choice to modify the anchoring system of Hohmann modified by Frobosilo and Wilhelmi to have the strengthening rib constructed to meet a 100 lbf tension and compression rating since

the anchoring system would obviously be required to have a high strength, as it is used to hold wall members together.

Regarding claim 3 and 15, the wall construction including the exterior layer is not positively recited and is considered intended use with the anchoring system and is given no patentable weight.

Regarding claim 4 and 16, the modified anchoring system of Hohmann, Frobosilo and Wilhelmi would have said strengthening rib impressed to depend from said mounting surface (i). The phrase "and adapted, upon surface mounting of said wall anchor, to be pressed into said insulation of said inner wythe" is considered intended use and is given no patentable weight.

Regarding claims 5 and 17, Hohmann modified by Frobosilo and Wilhelmi discloses as discussed above, Hohmann also discloses each of said pair of legs (33) extending from said mounting surface (i) of said plate-like body (24), terminate in at least two points (39, 41), (annotated Figure 3). The limitation said inner wythe is a dry-wall is not part of the claim. Therefore it is considered intended use and is given no patentable weight.

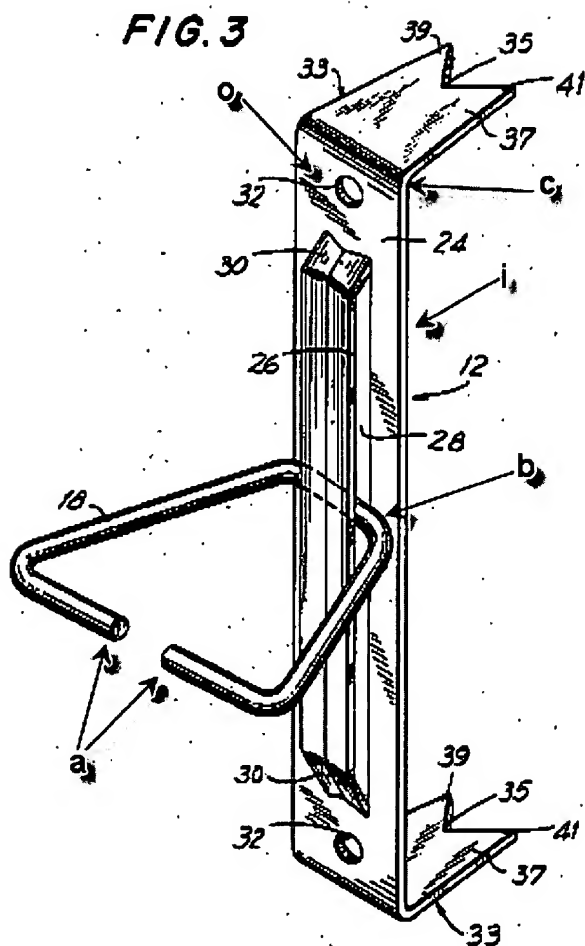
The phrase "adapting said anchoring system for minimal thermal transfer between said inner wythe and said anchoring system" is considered intended use and is given no patentable weight.

Regarding claim 7 and 18, Hohmann modified by Frobosilo and Wilhelmi discloses as discussed above, Hohmann also discloses an anchoring system having reinforcement wire (18) adapted for disposition in said bed joint;

an attachment portion (a) for threading through said apertured receptors (28); an insertion portion (b) contiguous with and opposite said attachment portion, said insertion portion being swaged for interconnection with said reinforcement wire, (annotated Figure 3).

The phrase "whereby, upon installation of said anchoring system with an interconnected reinforcing wire in said outer wythe, said system provides seismic protection" is considered intended use and is given no patentable weight.

Regarding claims 8 and 19, Hohmann modified by Frobosilo and Wilhelmi discloses as discussed above, Hohmann also discloses the anchoring system (12) having sealant means for further sealing between said plate-like body and said exterior layer (Figure 2), (Column 3, Lines 51-57).



Hohmann (US 4,598,518)

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann (US 4,598,518) in view of Frobosilo (US 5,846,018), Wilhelmi (US 5,598,680) and further in view of Liu (US 6,098,364). Hohmann modified by Frobosilo and Wilhelmi discloses as discussed above, but does not disclose each of said pair of legs is formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body and adapted to sheathe said

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mounting hardware inserted therethrough. However, Liu discloses an anchoring system having legs (210) formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body, (Figure 5), (Column 2, Lines 45-46). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Hohmann, Frobosilo and Wilhelmi to have the legs formed from a hollow tubular member as taught by Liu in order to enable the mounting hardware to be held by the wall anchor and securely engage a wall construction.

8. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann (US 4,598,518) in view of Frobosilo (US 5,846,018), Wilhelmi (US 5,598,680) and further in view of Liu (US 6,098,364). Hohmann modified by Frobosilo, Wilhelmi and Liu discloses as discussed above, Hohmann also teaches an anchoring system (12) having sealant means for further sealing between said plate-like body including the mounting surface and the covering surface and said exterior layer, (Figure 2), (Column 3, Lines 51-57).

In addition, it would have been obvious to one having ordinary skill in the art to apply the sealant prior to mounting the wall anchor. The mounting surface would be flush against a wall once the anchor is mounted, and it would be very difficult to apply sealant to that area. It would be much easier to apply a sealant before mounting the anchor.

9. In addition, claims 1-4, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapish (US 5,035,099) in view of Frobosilo (US 5,846,018) and further in view of Wilhelmi (US 5,598,680).

Regarding claims 1 and 13, Lapish discloses an anchoring system having a wall anchor (10) constructed from a plate-like body (b) having two major faces being the mounting surface (i) and the outer surface (21), said wall anchor, in turn, comprising; a pair of legs (25), each extending from said mounting surface of said plate-like body from an inboard location thereof with the longitudinal axis of each of said legs being substantially normal to said mounting surface (i), (annotated Figure 1).

The phrases "said legs adapted for insertion at a predetermined insertion point into said exterior layer of said inner wythe", "adapted to preclude penetration of air, moisture and water vapor into said exterior layer" are considered intended use and are given no patentable weight.

a covering portion (c) formed at said mounting surface (i) of said plate-like body,

an apertured receptor portion (30, 31) adjacent said outer surface (21) of said plate-like body (b), (annotated Figure 1). The phrase "adapted to limit displacement of said outer wythe toward and away from said inner wythe" is considered intended use and is given no patentable weight.

and, a veneer tie (11, 12) threadedly disposed through said apertured receptor portion (30, 31), (annotated Figure 1). The phrase "and adapted for embedment in said bed joint of said outer wythe to prevent disengagement from said anchoring system" is considered intended use and is given no patentable weight.

Lapish does not disclose the legs having a channel along said axis adapted for sheathing mounting hardware. However, Frobosilo teaches a leg (14) having a channel (28) along said axis, (Figure 1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the legs of Lapish to include a channel as taught by Frobosilo that would provide the option of having an additional attachment between the leg and the layer of insulation.

Lapish does not disclose at least one strengthening rib impressed in said plate-like body parallel to said apertured receptor portion. However, Wilhelmi teaches a bracket assembly having at least one strengthening rib (23) impressed in said plate-like body parallel to an apertured receptor portion (4.1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Lapish to include at least one strengthening rib parallel to said apertured receptor portion as taught by Wilhelmi, as it is well known in the art to add ribs to sheet metal members, as they provide reinforcement by adding strength and rigidity to the sheet metal.

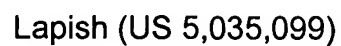
Regarding claims 2 and 14, Lapish modified by Frobosilo and Wilhelmi discloses as discussed above, but does not disclose said wall anchor strengthened by at least one strengthening rib is constructed to meet a 100 lbf tension and compression rating. However, it would have been an obvious matter of design choice to modify the anchoring system of Lapish modified by Frobosilo and Wilhelmi to have the strengthening rib constructed to meet a 100 lbf tension and compression rating since

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the anchoring system would obviously be required to have a high strength, as it is used to hold wall members together.

Regarding claim 3 and 15, the wall construction including the exterior layer is not positively recited and is considered intended use with the anchoring system and is given no patentable weight.

Regarding claim 4 and 16, the modified anchoring system of Lapish, Frobosilo and Wilhelmi would have said strengthening rib impressed to depend from said mounting surface (i). The phrase "and adapted, upon surface mounting of said wall anchor, to be pressed into said insulation of said inner wythe" is considered intended use and is given no patentable weight.



Regarding claims 5 and 17, Lapish modified by Frobosilo and Wilhelmi discloses as discussed above, Lapish also discloses each of said pair of legs (25) extending from

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said mounting surface (i) of said plate-like body (b), (annotated Figure 1). Lapish modified by Frobosilo and Wilhelmi does not disclose each of the legs terminates in at least two points. However, Hohmann teaches legs (33) that terminate in at least two points (39, 41), (Figure 3). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the legs of Lapish, Frobosilo and Wilhelmi to terminate in at least two points as taught by Hohmann in order to facilitate the penetration of the anchor into the wall system.

The limitation said inner wythe is a dry-wall is not part of the claim. Therefore is is considered intended use and is given no patentable weight.

The phrase "adapting said anchoring system for minimal thermal transfer between said inner wythe and said anchoring system" is considered intended use and is given no patentable weight.

Regarding claim 7 and 18, Lapish modified by Frobosilo and Wilhelmi discloses as discussed above, Lapish also discloses an anchoring system having an attachment portion (11) for threading through said apertured receptors (30, 31); an insertion portion (34, 35) contiguous with and opposite said attachment portion, said insertion portion being swaged for interconnection with said reinforcement wire, (annotated Figure 1). Lapish does not disclose a reinforcement wire adapted for disposition in said bed joint. However, Hohmann '518 teaches a reinforcement wire (18). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Lapish, Frobosilo and Wilhelmi to have a

reinforcement wire as taught by Hohmann '518 in order to further strengthen the connection between the wall anchor and the inner and outer walls.

The phrase "whereby, upon installation of said anchoring system with an interconnected reinforcing wire in said outer wythe, said system provides seismic protection" is considered intended use and is given no patentable weight.

Regarding claims 8 and 19, Lapish modified by Frobosilo and Wilhelmi discloses as discussed above, but does not disclose the anchoring system having sealant means for further sealing between said plate-like body and said exterior layer. However, Hohmann teaches an anchoring system (12) having sealant means for further sealing between said plate-like body and said exterior layer, (Figure 2), (Column 3, Lines 51-57). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Lapish, Frobosilo and Wilhelmi to include sealant means as taught by Hohmann '518 in order to prevent moisture from penetrating between the outer and inner walls.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lapish (US 5,035,099) in view of Frobosilo (US 5,846,018), Wilhelmi (US 5,598,680) and further in view of Liu (US 6,098,364). Lapish modified by Frobosilo and Wilhelmi discloses as discussed above, but does not disclose each of said pair of legs is formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body and adapted to sheathe said mounting hardware inserted therethrough. However, Liu discloses an anchoring system

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having legs (210) formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body, (Figure 5), (Column 2, Lines 45-46). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Lapish, Frobosilo and Wilhelmi to have the legs formed from a hollow tubular member as taught by Liu in order to enable the mounting hardware to be held by the wall anchor and securely engage a wall construction.

12. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lapish (US 5,035,099) in view of Frobosilo (US 5,846,018), Wilhelmi (US 5,598,680), Liu (US 6,098,364), and further in view of Hohmann (US 4,598,518). Lapish modified by Frobosilo, Wilhelmi and Liu discloses as discussed above, but does not disclose the anchoring system having sealant means for further sealing between said mounting surface of said plate-like body, the covering portion of said plate-like body and said exterior layer. However, Hohmann teaches an anchoring system (12) having sealant means for further sealing between said plate-like body including the mounting surface and the covering surface and said exterior layer, (Figure 2), (Column 3, Lines 51-57). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Lapish, Frobosilo, Wilhelmi and Liu to include sealant means as taught by Hohmann '518 in order to prevent moisture from penetrating between the outer and inner walls.

In addition, it would have been obvious to one having ordinary skill in the art to apply the sealant prior to mounting the wall anchor. The mounting surface would be flush against a wall once the anchor is mounted, and it would be very difficult to apply sealant to that are. It would be much easier to apply a sealant before mounting the anchor.

Response to Arguments

13. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

The examiner recognizes the applicant's attempt to overcome the rejections under the prior art of record. However, the amendments are not sufficient to clearly define over the prior art, as key features such as "inboard location", "mounting surface", "outer surface", "covering portion", are still anticipated by Lapish due to the broad claim language and structural limitations.

In response to applicant's argument in paragraph 8 of the remarks, the examiner asserts that the prior art of Liu teaches members that are hollow and tubular and clearly meets this limitation.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hentzschel (US 5,186,571) teaches strengthening rib parallel to

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apertures; Monroe (US 3,154,889) teaches an element having a folded portion and a perpendicular leg.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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